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09 JUL 2007

In re Application of
O'Regan et al.
Application No.: 10/534,206
PCT No.: PCT/IE03/00150
Int. Filing Date: 06 November 2003
Priority Date: 07 November 2002
Attorney Docket No.: 3583 P 007
For: System For Billing Rating
And Selection Of Accounts

DECISION
ON
PETITION

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 07 May 2007.

DISCUSSION

In a Decision mailed on 05 March 2007, the renewed petition under 37 CFR 1.47(a) filed on 26 January 2007 was dismissed without prejudice because

In response, petitioner has furnished additional evidence purporting to show that Mr. Mullins refused to execute the declaration, including a declaration made by Jo Wall on 16 January 2007 and supporting documentation, including emails from Mr. Mullins. However, the record still does not clearly show that Mr. Mullins was presented with a complete copy of this application prior to the alleged refusal to execute the application. The letter to Mr. Mullins dated 21 November 2006 refers to a "copy of the published PCT Patent Specification," but the specific international application number of the application sent to Mr. Mullins is not specified. Moreover, it is not clear whether a complete copy was sent, or just a "Specification" (i.e., description, without claims, drawings or abstract). In addition, the letter suggests that the "Specification" was sent by Michael Lucey rather than by Jo Wall, but petitioner has not provided a statement by Mr. Lucey describing his first-hand knowledge of the circumstances surrounding the transmittal of the "Specification." As noted in the Decision mailed on 27 September 2006, MPEP 409.03(d) states that a proper showing of "refusal" requires proof that a bona fide attempt was made to present a complete copy of the application papers to the non-signing inventor. Since this point has not been proven, requirement (2) still has not been met.

In response, petitioner provides a statement by Michael Lucey, dated 02 May 2007, indicating that "the specification mentioned in my letter of 21 November 2006 contained the application papers as filed at the USPTO," and that "on the 18 April 2007 I sent a further letter containing the application papers as filed at the USPTO to the Inventor Mr. Robert Mullins by DHL courier. I enclose a statement confirming the shipment was delivered on April 24 2007 as evidence. Although the accompanying copy of a letter from Mr. Lucey to Mr. Mullins, dated 18 April 2007, does not explicitly list the drawings as among the application papers, consideration of the evidence as a whole supports the conclusion that Mr. Mullins was provided with a copy of the application as filed, and that he was aware of the contents of the application he was being asked to execute.

Mr. Lucey's statement dated 02 May 2007 further indicates that

In a telephone discussion on 1 May 2007 Mr. Robert Mullins informed me that he was unwilling to execute the declaration unless he received a €5,000 payment in return. This position re-affirms the stance Mr. Mullins had taken in email correspondence with Jo Wall in late 2005.

Mr. Lucey's account of Mr. Mullins' express oral refusal, taken in concert with the totality of the other evidence made of record, is sufficient to establish that Mr. Mullins has in fact refused to execute the application. As such, requirement (2) has now been satisfied.

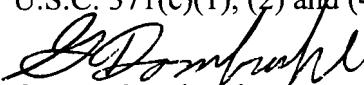
DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **26 January 2007**.


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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Robert MULLINS) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IE2003/000150 and was filed on November 6, 2003 in the names of Michael O'REGAN, Ian DEAKIN and Robert MULLINS for the invention entitled SYSTEM FOR BILLING RATING AND SELECTION OF ACCOUNTS. The national stage application number is 10/534,206 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 26, 2007.